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DATE: **REVISED September 22, 2011**

TO: District Superintendents, Clerk/Business Managers and County Superintendents

RE: State Tuition Payments

BACKGROUND

HB83, which passed during the 2005 Legislative Session, made the Office of Public Instruction responsible for tuition payments for a student placed outside the student's district of residence by a state agency or court, including tribal court. Prior to the passage of this bill, county superintendents were responsible for tuition payments for "state-placed" students.

[20-5-321, MCA](#) states:

"(1) An out-of-district attendance agreement that allows a child to enroll in and attend a school in a Montana school district that is outside of the child's district of residence or in a public school district of a state or province that is adjacent to the county of the child's residence is mandatory whenever:
. . . (d) the child is under the protective care of a state agency or has been adjudicated to be a youth in need of intervention or a delinquent youth, as defined in [41-5-103](#); or
(e) the child is required to attend school outside of the district of resident as the result of a placement in foster care or a group home licensed by the state."

STATE- and COURT- PLACED STUDENT

Q: What is a state placement or a court placement for purposes of OPI tuition payments?

A: [20-5-321\(1\)\(d\), MCA](#) defines the state- and court-placement circumstances for which OPI provides tuition payments. State agency placements usually involve a DPHHS caseworker who places a student into a group home or foster care licensed by Montana. Court placements involve a juvenile probation officer or a tribal or youth court judge. [20-5-321\(1\)\(e\), MCA](#) also provides state-paid tuition for any student placed in a foster care or state-licensed group home outside their district of residence—regardless of who initiates the placement. Therefore, even students placed in foster care or a group home by a parent are covered.

Q: If a student is placed in a group home or foster care within his own district of residence, can the district claim tuition for the student?

A: No, only non-resident students can be claimed for tuition payments.

Q: How does OPI determine whether the student's placement falls under [20-5-321 \(1\)\(d\) or \(1\)\(e\), MCA](#)?

The Montana Office of Public Instruction provides vision, advocacy, support, and leadership for schools and communities to ensure that all students meet today's challenges and tomorrow's opportunities.

A: The Attendance Agreement form (FP-14) must be signed by a caseworker or representative of the court, unless the placement is a parental placement in a group home. In that case, the form must indicate the parent made the group home placement, and OPI will determine if verification of the placement with DPHHS is necessary.

RESIDENCY

Q: How is the residence of the student determined?

A: [1-1-215\(4\) and \(5\), MCA](#) define a minor's residence as follows:

(4) The residence of an unmarried minor is: (a) the residence of the minor's parents; (b) if one of the parents is deceased or the parents do not share the same residence, the residence of the parent having legal custody; (c) if neither parent has legal custody, the residence of the legal guardian or custodian appointed by a court of competent jurisdiction; or (d) if the conditions in 20-5-502 are met, the residence of the caretaker relative. (5) In the case of a controversy, the district court has jurisdiction over which residence is the residence of an unmarried minor.

Q: What is the district of residence for students of whom DPHHS has temporary custody?

A: When custody has been temporarily granted to DPHHS but the parental rights have not been terminated, residency is still determined by the residence of the parents.

Q: What is the district of residence for a student whose parental rights have been permanently terminated by the court?

A: If the state has temporary custody of a student whose birth parents' parental rights have been permanently revoked, the student's district of residence is the location of the court that terminated the parental rights. When the parents' rights are terminated, [42-2-617, MCA](#) states that an order terminating parental rights has to award custody to the DPHHS, other agency or a prospective adoptive parent. According to 43 AG 36, "for a child whose parents' rights have been terminated and who is in the custody of the department pending permanent placement, the child's residence is the same as the physical location of the district court which ordered the termination and which maintains jurisdiction of the case until permanent disposition."

TUITION RATES AND PAYMENTS

Q: What is the process for a district to claim OPI payments for state- and court-placed students?

A: The district of attendance should submit a Student Attendance Agreement (FP-14) to OPI for each non-resident student who was placed by a parent, state agency or court as described in [20-5-321 \(1\)\(d\) and \(e\), MCA](#). The form is available here: <http://www.opi.mt.gov/pdf/SchoolFinance/forms/FP14.pdf>.

If the situation qualifies for "special rates" (for example, special education services or higher-than-average cost services for non-disabled students), the district must attach a Special Tuition Rate form (FP-14A) to detail the additional costs. The form is available here:

<http://www.opi.mt.gov/pdf/SchoolFinance/forms/FP14A.pdf>

Second, the district must submit a tuition report (FP-15) in the MAEFAIRS system that details the number of days each student was enrolled during the previous school year. This form acts as a claim for tuition reimbursements and must be submitted to OPI no later than June 30 of the year following the year of attendance. Detailed instructions for using the MAEFAIRS system for tuition purposes are available here: <http://www.opi.mt.gov/pdf/SchoolFinance/Tuition/MAEFAIRSInstructions.pdf>

Q: How much does OPI pay for tuition for placed students?

A: OPI pays the approved tuition rates for the district's regular education rate plus special rate ("add-on"), as shown on the FP-14 and FP-14A forms. Regular ed rates are based on the per-ANB entitlement amounts, and typically change each year. OPI posts the maximum tuition rates for regular education students at <http://www.opi.mt.gov/pdf/schoolfinance/Tuition/FY2011-Tuition-Rates.pdf>. Special Add-On rates are based on the amount specified by the FP-14A form.

Q: If the student isn't enrolled all year, can the district claim the full annual tuition?

A: No, tuition is prorated for the actual number of days the student is enrolled during the year. The number of days enrolled is reported on the tuition report (FP-15) in the MAEFAIRS system.

Q: When will OPI pay the tuition? How will it be paid to the district?

A: After receiving the Tuition Report (FP-15) through the MAEFAIRS system during the year following the year of attendance, OPI will calculate the tuition owed and make a payment to the district. The payment will be made in a single payment along with a regular monthly payment for direct state aid funding. Since the majority of tuition for placements will fall under [20-5-324\(6\)\(b\) and \(6\)\(c\), MCA](#), OPI will send the tuition portion of the payment for deposit into the district's general fund (01).

The over-schedule transportation portion of the payment, if any is indicated on the FP-14 Attendance Agreement form, will be deposited in the district's transportation fund (10). OPI staff will also notify the clerk when the tuition payment has been made.

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